

CHAPTERED 753, STATUTES OF 2003

(AB 28)

Jackson/Pavley

SECTION 1. Section 14513.5 is added to the Public Resources Code, to read:

14513.5. "HDPE" means a plastic beverage container labeled with a "2" for high-density-polyethylene resin pursuant to Section 18015 and subject to this division.

SEC. 2. Section 14528.1 of the Public Resources Code is amended to read:

14528.1. "Voluntary artificial scrap value" means a price paid by a willing purchaser of empty PET containers, ~~pursuant to Section 14575.1,~~ that reflects the payment of the scrap value for all PET containers sold, and that, when combined with payments made from the PET ~~Processing Fee Account pursuant to subdivision (f) of Section 14575~~ processing fee account pursuant to clause (ii) of subparagraph (A) of paragraph (6) of subdivision (a) of Section 14581, is equal to, or more than, the recycling cost for empty PET containers, as determined in subdivision (d) of Section 14575.

SEC. 3. Section 14549 of the Public Resources Code is amended to read:

14549. (a) Every glass container manufacturer shall report to the department each month, by a method as determined by the department, the amount of total tons of new glass food, drink, and beverage containers made in California by that glass container manufacturer and the tons of California postfilled glass used in the manufacturing of those new containers.

(b) Each glass container manufacturer in the state shall use a minimum percentage of 35 percent of postfilled glass in the manufacturing of their glass food, drink, or beverage containers measured in the aggregate, on an annual basis, except that if a glass container manufacturer demonstrates to the satisfaction of the department that its use of postfilled glass during the annual period is made up of at least ~~75~~ 50 percent

~~mixed-color~~ mixed-color cullet, then that manufacturer shall use a minimum percentage of 25 percent postfilled glass in the manufacturing of its glass ~~—~~

food, drink, or beverage containers, measured in the aggregate, on an annual basis.

(c) A glass container manufacturer may seek a reduction or waiver of the minimum postfilled glass percentage required to be used in the manufacture of glass food, drink, or beverage containers pursuant to subdivision (b). The department may grant a reduction or waiver of the percentage requirement if it finds and determines that it is technologically infeasible for the glass container manufacturer to achieve the percentage requirement or if the department determines that a glass container manufacturer cannot achieve the minimum percentage because of a lack of available glass cullet.

(d) For the purposes of this section, ~~"mixed-color~~

"mixed-color cullet" means cullet that does not meet the American Society for Testing and Materials (ASTM) standard specifications for color mix of color sorted postfilled glass as raw material for the manufacture of glass containers.

SEC. 4. Section 14549.1 of the Public Resources Code is amended to read:

14549.1. In order to improve the quality and marketability of glass containers collected for recycling in the state by curbside recycling programs, the department may, consistent with Section 14581 and subject to the availability of funds, pay a quality glass incentive payment to either an operator of a curbside recycling program registered pursuant to Section 14551.5, or to any other entity certified pursuant to this division, that color sorts glass beverage containers for recycling. The total amount paid by the department pursuant to this section shall not exceed three million dollars (\$3,000,000) per calendar year. The department shall make a quality glass incentive payment based on all of the following:

(a) The amount of the quality glass incentive payment shall be up to ~~twenty-five~~ thirty dollars ~~(\$25)~~ (\$30) per ton, as determined by the department.

(b) The department shall make a quality glass incentive payment only for color-sorted glass beverage containers that are substantially free of contamination.

(c) The department shall make a quality glass incentive payment only for glass beverage containers that are either collected color sorted by curbside recycling programs, or collected commingled by curbside recycling programs and subsequently color sorted by the collector or any other entity certified pursuant to this division.

(d) Only one payment shall be made for each color-sorted glass beverage container collected.

SEC. 5. Section 14549.5 of the Public Resources Code is amended to read:

14549.5. ~~Within 90 days~~ On or before the 90th day after the effective date of the act amending this section, and annually thereafter, or more frequently as determined to be necessary by the department, the department shall review and, if necessary in order to ensure payment of the most accurate commingled rate feasible, recalculate commingled rates paid for beverage containers and postfilled containers paid to curbside recycling programs, collection programs, and recycling centers. Prior to recalculating a commingled rate pursuant to this section, the department shall do all of the following:

(a) Consult with private and public operators of curbside recycling programs, collection programs, and recycling centers concerning the size of the statewide sample, appropriate sampling methodologies, and alternatives to exclusive reliance on a statewide commingled rate.

(b) At least 60 days prior to the effective date of any new commingled rate, hold a public hearing, after giving notice, to make available to the public and affected parties the department's review and any proposed recalculations of the commingled rate.

(c) At least 60 days prior to the effective date of any new commingled rate, and upon the request of any party, make available documentation or studies which were prepared as part of the department's review of a commingled rate.

(d) ~~This section shall become operative on January 1, 2001.~~ (1) Notwithstanding this division, the department may calculate a curbside recycling program commingled rate

pursuant to this subdivision for bimetal containers and a combined commingled rate for all plastic beverage containers displaying the resin identification code "3," "4," "5," "6," or "7" pursuant to Section 18015.

(2) The department may enter into a contract for the services required to implement the amendments to this section made by the act of the first half of the 2003-04 Regular Session of the Legislature amending this section. The department may not expend more than two hundred fifty thousand dollars (\$250,000) for each year of the contract. The contract shall be paid only from revenues derived from redemption payments and processing fees paid on plastic beverage containers displaying the resin identification code "3," "4," "5," "6," or "7" pursuant to Section 18015. If the department determines that insufficient funds will be available from these revenues, after refund values are paid to processors and the reduction is made in the processing fee pursuant to subdivision (f) of Section 14575 for these containers, the department may determine not to calculate a commingled rate pursuant to this subdivision.

SEC. 6. Section 14549.6 of the Public Resources Code is amended to read:

14549.6. (a) The department, consistent with Section 14581 and subject to the availability of funds, shall annually pay a total of fifteen million dollars (\$15,000,000) per fiscal year to operators of curbside programs and neighborhood dropoff programs that accept all types of empty beverage containers for recycling. The payments shall be for each container collected by the curbside or neighborhood dropoff programs and properly reported to the department by processors, based upon all of the following:

(1) The payment amount shall be calculated based upon the volume of beverage containers collected ~~during the fiscal year~~ by curbside and neighborhood dropoff programs ~~during the 12-month calendar year ending on December 31 of the fiscal year for which payments are to be made~~ .

(2) The per-container rate shall be calculated by dividing the total volume of beverage containers collected, as determined pursuant to paragraph (1), into the sum of fifteen million dollars (\$15,000,000) .

(3) The amount to be paid to each operator of a curbside and neighborhood dropoff program shall be based upon the per-container rate, calculated pursuant to paragraph (2), multiplied by the curbside program's total reported beverage container volume ~~during the fiscal year for which those payments are made~~ calculated pursuant to paragraph (1) .

(b) The amounts paid pursuant to this section shall be expended by operators of curbside and neighborhood dropoff programs only for activities related to beverage container recycling.

(c) The department shall disburse payments pursuant to this section not ~~sooner~~ later than the ~~6th month~~ end of the fiscal year following the ~~fiscal~~ calendar year for which the payments are ~~being made~~ calculated pursuant to paragraph (1) of subdivision (a) , subject to the availability of funds.

(d) The operator of a curbside program or neighborhood dropoff program shall make available for inspection and review any relevant record that the department determines is necessary to verify

compliance with this section.

SEC. 7. Section 14552.5 of the Public Resources Code is amended to read:

14552.5. (a) The department shall supply all certified processors with a standardized rejection form ~~which~~ that shall include, but not be limited to, the name of the parties rejecting the postfilled ~~glass~~ beverage container material, the date of the rejections, the reasons for the rejections, the amount of rejected material, and a detailed accounting of the steps taken by the processor and ~~glass~~ container manufacturer to avert landfilling or disposal of the material, as required by subdivision (c) of Section 14552.51.

(b) Every ~~glass~~ container manufacturer shall fill out the standardized rejection form specified in subdivision (a) whenever that ~~glass~~ container manufacturer rejects a load of redeemed ~~glass~~ beverage container materials physically delivered to the manufacturer's place of business and offered for sale by a certified processor. The rejection form shall be filled out by the ~~glass~~ container manufacturer at the time of the rejection and immediately given to the certified processor for submittal to the department. Any ~~glass~~ container manufacturer who refuses to fill out the standardized rejection form required by this subdivision is in violation of this division and is subject to the fines and penalties in ~~Section~~ Sections 14591 and 14591.1 .

(c) If a processor has made a good faith effort, as determined by the department, to locate a willing purchaser and is unsuccessful, the processor may fill out the standardized rejection form specified in subdivision (a) and submit it to the department. The processor rejection form shall include, but is not limited to, the name of the processor, the ~~glass~~ container manufacturers and other potential purchasers contacted, a detailed accounting of the methods used to contact the potential buyers, the date of the rejections, the reasons given for the rejections, the amount of postfilled ~~glass~~ beverage container material rejected, and any other steps taken to avert landfilling or disposal of the material.

(d) If a ~~glass~~ container manufacturer rejects a load of postfilled ~~glass~~ containers by telephone, written correspondence of any kind, or other similar method, the ~~glass~~ container manufacturer shall, in a manner prescribed by the department, keep accurate logbooks of the offer of loads by the certified processor, and make that logbook available for inspection by the department upon demand. The logbook shall contain, but is not limited to, the same information required in the rejection form pursuant to subdivision (a).

(e) The standardized rejection form specified in subdivision (a) shall be submitted to the department by the certified processor with the written request to dispose of the redeemed material submitted pursuant to Section 14552.51. This material shall not be disposed of without a written authorization to do so by the department pursuant to Section 14552.51.

(f) Nothing in this section shall be interpreted to lessen certified processors' and ~~glass~~ container

manufacturer's responsibilities relating to ~~glass~~ beverage container recycling, or diminish in any way the department's authority to carry out the intent and goals of this division.

SEC. 8. Section 14552.51 of the Public Resources Code is amended to read:

14552.51. (a) ~~On or after January 1, 1991, no~~

A certified processor seeking to dispose of rejected postfilled containers may not dispose of rejected postfilled containers unless the certified processor first submits to the department, in writing, a request to dispose of the rejected material. No certified processor shall dispose of the rejected material prior to obtaining written permission from the department. If the department fails to respond to a written request to dispose of rejected postfilled ~~glass~~ beverage container materials within 10 days of receipt of the request, the processor's request for disposal is deemed approved by the department.

(b) All rejected loads of postfilled containers shall be available and subject to inspection by the department.

(c) All possible steps to avert the disposal of the loads of postfilled containers, as determined by the department, shall be taken by all ~~glass~~ container manufacturers and processors. All transactions or attempted transactions involving rejecting postfilled containers shall be thoroughly documented on the standardized rejection form pursuant to Section 14552.5. The ~~glass~~ container manufacturer and the certified processor are jointly and severally responsible for this effort.

SEC. 9. Section 14560 of the Public Resources Code is amended to read:

14560. (a) (1) ~~Every~~ Except as provided in paragraph (3), a beverage distributor shall pay the department, for deposit into the fund, a redemption payment of ~~two and one-half~~ four cents ~~(\$0.025)~~ (\$0.04) for ~~every~~ a beverage container sold or offered for sale in this state by the distributor.

(2) A beverage container with a capacity of 24 fluid ounces or more shall be considered as two beverage containers for purposes of redemption payments and refund values.

(3) On and after July 1, 2007, the amount of the redemption payment and refund value for a beverage container with a capacity of less than 24 fluid ounces sold or offered for sale in this state by a dealer shall equal five cents (\$0.05) and the amount of redemption payment and refund value for a beverage container with a capacity of 24 fluid ounces or more shall be ten cents (\$0.10), if the aggregate recycling rate reported pursuant to Section 14551 for all beverage containers subject to this division is less than 75 percent for the 12-month reporting period from January 1, 2006, to December 31, 2006, or for any calendar year thereafter.

(b) Except as provided in subdivision (c), ~~every~~ all beverage ~~container~~ containers sold or offered for sale in this state ~~has~~ have a minimum refund value of ~~five~~ eight cents ~~(\$0.05)~~

(\$0.08) for every two beverage containers redeemed and ~~three~~ four cents ~~—(\$0.03)—~~

(\$0.04) for ~~every~~ a single or unpaired beverage container redeemed in a single transaction.

(c) Notwithstanding subdivision (b), a single or unpaired beverage container of 24 fluid ounces or larger shall have a minimum refund value of ~~five~~ eight cents ~~—(\$0.05)—~~ (\$0.08) .

(d) (1) The department shall periodically review the fund to ensure that there are adequate funds in the fund to pay refund values and other disbursements required by this division.

(2) If the department determines, pursuant to a review made pursuant to paragraph (1), that there may be inadequate funds to pay the refund values and necessary disbursements required by this division, the department shall immediately notify the Legislature of the need for urgent legislative action.

(3) On or before 180 days after the notice is sent pursuant to paragraph (2), the department may reduce or eliminate expenditures, or both, from the fund as necessary, according to the procedure set forth in Section 14581, to ensure that there are adequate funds in the fund to pay the refund values and other disbursements required by this division.

(e) This section does not apply to ~~any~~ a refillable beverage container.

(f) The repeal and reenactment of this section by ~~this act enacted during the 1999-2000 Regular Session shall~~ Chapter 815 of the Statutes of 1999 does not affect any obligations or penalties imposed by this section, as it read on January 1, 1999.

SEC. 10. Section 14561 of the Public Resources Code is amended to read:

14561. (a) ~~(1)~~ A beverage manufacturer shall clearly indicate on ~~every~~ all beverage ~~container~~ containers sold or offered for sale by that beverage manufacturer in this state the message "CA Redemption ~~Value~~ or Value," "California Redemption Value," "CA Cash Refund," "California Cash Refund," or "CA CRV," by either printing or embossing the beverage container or by securely affixing a clear and prominent stamp, label, or other device to the beverage container.

~~—(2) A beverage manufacturer may affix the message "CA Cash Refund," "California Cash Refund," or "CA 2.5c," if the container is less than 24 ounces, or "CA Cash Refund," "California Cash Refund," or "CA 5c," if the container is 24 ounces or more, on a beverage container sold or offered for sale by the beverage manufacturer, instead of the message specified in paragraph (1), but the message shall be affixed in the manner prescribed in paragraph (1).—~~

(b) Any refillable beverage container sold or offered for sale is exempt from this section. However, any beverage manufacturer or container manufacturer may place upon, or affix to, a refillable beverage container, any message that the manufacturer determines to be appropriate relating to the refund value of the beverage container.

(c) No person shall offer to sell, or sell to a consumer a beverage container subject to subdivision (a) that has not been labeled pursuant to this section, except for a refillable beverage

container that is exempt from labeling pursuant to subdivision (b).

(d) The department may require that ~~any~~ a beverage container intended for sale in this state be printed, embossed, stamped, labeled, or otherwise marked with a universal product code or similar machine-readable indicia.

(e) ~~Any~~ A beverage container labeled with the message specified in subdivision (a) shall have the minimum redemption payment established pursuant to Section 14560, which shall be paid by the distributor to the department pursuant to Section 14574.

~~(f) To the extent not otherwise authorized by this section, a glass beverage container containing noncarbonated fruit drinks that contain any percentage of fruit juice, made subject to this division pursuant to Chapter 815 of the Statutes of 1999, may comply with the requirements of this section by embossing the container with the message described in paragraph (1) or (2) of subdivision (a).~~

~~(g) Notwithstanding any other requirement of this section, any beverage container that is included within the scope of this division on January 1, 2000, but that was not subject to this division before that date, shall be exempt from the labeling requirements of this section until January 1, 2001. However, even though these beverage containers are not required to bear the message required by this section from January 1, 2000, to January 1, 2001, inclusive, notwithstanding subdivision (c) of Section 14512, they shall be considered "empty beverage containers" for all of the purposes of this division during that period of time.~~

~~(h) Notwithstanding any other requirement of this section, any beverage container that is included within the scope of this division on January 1, 2001, but that was not subject to this division before that date, shall be exempt from the labeling requirements of this section until January 1, 2002. However, even though these beverage containers are not required to bear the message required by this section from January 1, 2001, to January 1, 2002, inclusive, notwithstanding subdivision (c) of Section 14512, they shall be considered "empty beverage containers" for all of the purposes of this division during that period of time.~~

(f) Until July 1, 2004, a beverage manufacturer may continue to sell or offer for sale beverage containers bearing any redemption value message permitted by this division as of January 1, 2003.

SEC. 11. Section 14573.51 of the Public Resources Code is amended to read:

14573.51. (a) Notwithstanding any other provision of this division, recycling centers and processors shall not pay curbside programs more than the applicable statewide average curbside commingled rate unless the curbside program has received an individual commingled rate from the department pursuant to subdivision (b).

(b) The department ~~shall~~ may establish a procedure whereby the operators of curbside programs may apply for an individual commingled rate for any material or types with or without a statewide commingled rate, including, but not limited to, glass, aluminum, bimetal, or any of the individual plastic resin types or combination of resin types identified by resin identification codes under Section 18015. These procedures shall require, at a minimum, all of the following:

(1) The individual rate shall be valid for no more than one year

from the date the individual rate is authorized.

(2) The methodology used by the operator of the curbside program to determine the commingled rate shall be approved by the department, in advance.

(c) Curbside programs ~~which~~ that have acquired an individual commingled rate, pursuant to this section, shall not be surveyed by the department to determine the statewide average curbside commingled rate during the period the individual commingled rate is effective.

(d) *The department may enter into a contract for the services required to implement the amendments to this section made by the act of the first half of the 2003-04 Regular Session of the Legislature amending this section. The department may not expend more than two hundred fifty thousand dollars (\$250,000) for each year of the contract. The contract shall be paid only from revenues derived from redemption payments and processing fees paid on plastic beverage containers displaying the resin identification code "3," "4," "5," "6," or "7" pursuant to Section 18015. If the department determines that insufficient funds will be available from these revenues, after refund values are paid to processors and the reduction is made in the processing fee pursuant to subdivision (f) of Section 14575 for these containers, the department may determine not to calculate a commingled rate pursuant to subdivision (b).*

SEC. 12. Section 14575 of the Public Resources Code is amended to read:

14575. (a) If any type of empty beverage container with a refund value established pursuant to Section 14560 has a scrap value less than the cost of recycling, the department shall, on January 1, 2000, and on or before January 1 annually thereafter, establish a processing fee and a processing payment for the container ~~—~~ by the type of the material of the container.

(b) The processing payment shall be at least equal to the difference between the scrap value offered to a statistically significant sample of recyclers by willing purchasers, and except for the initial calculation made pursuant to subdivision (d), the sum of both of the following:

(1) The actual cost for certified recycling centers, excluding centers receiving a handling fee, of receiving, handling, storing, transporting, and maintaining equipment for each container sold for recycling or, only if the container is not recyclable, the actual cost of disposal, calculated pursuant to subdivision (c). The department shall determine the statewide weighted average cost to recycle each beverage container type, which shall serve as the actual recycling costs for purposes of paragraphs ~~—(3)—~~

(2) and ~~—(4)—~~ (3) of subdivision (c), by conducting a survey of the costs of a statistically significant sample of certified recycling centers, excluding those recycling centers receiving a handling fee, for receiving, handling, storing, transporting, and maintaining equipment.

(2) A reasonable financial return for recycling centers.

(c) The department shall base the processing payment pursuant to this section upon all of the following:

(1) ~~Except as specified in paragraph (2), the~~

The department shall use the average scrap values paid to recyclers between October 1, ~~1998—~~ 2001

, and September 30, ~~1999~~ 2002 , for the ~~initial~~ 2003 calculation and the same 12-month period directly preceding the year in which the processing fee is calculated for any subsequent calculation.

(2) ~~For material types not included in the program on January 1, 1999, the department shall estimate the scrap value for the initial calculation based on a sample of average scrap values paid to recyclers between July 1, 1999, and September 30, 1999.~~

~~(3) Except as specified in subdivision (d) To calculate the 2003 processing payments , the department shall use the actual recycling costs for certified recycling centers , as determined pursuant to paragraph (1) of subdivision (b) by the department on or before January 1, 2000, for the initial calculation.~~

~~(4) The department shall make all subsequent determinations of used to calculate the January 1, 2002, processing payments.~~

(3) For calculating processing payments that will be in effect on and after January 1, 2004, the department shall determine the actual costs for certified recycling centers, every second year, pursuant to paragraph (1) of subdivision (b) ~~, on before January 1, 2001, and every third year thereafter~~

. The department shall adjust the recycling costs annually to reflect changes in the cost of living, as measured by the Bureau of Labor Statistics of the United States Department of Labor or a successor agency of the United States government .

(d) ~~Except as provided in subparagraph (B) of paragraph (4), the department shall use the following cost data for Notwithstanding paragraph (1) of subdivision (b) and subdivision (c), for the purpose of setting the cost for recycling non-PET plastic containers by certified recycling centers for the January 1, 2000, calculation:~~

~~(1) Eighty five dollars and nineteen cents (\$85.19) for each ton of glass containers.~~

~~(2) Four hundred seventeen dollars and ninety six cents (\$417.96) for each ton of bimetal containers.~~

~~(3) Six to determine the processing payment for those containers, the department shall use a recycling cost of six hundred forty-two dollars and sixty-nine cents (\$642.69) for each ton of PET plastic containers.~~

~~(4) (A) Six hundred forty two dollars and sixty nine cents (\$642.69) for each ton of non PET plastic containers.~~

~~(B) Notwithstanding this subdivision, in calculating the January 1, 2001, processing payment for non PET plastic containers, the department shall also use the same cost data specified in subparagraph (A) per ton for the January 1, 2002, calculation of the processing payment .~~

(e) Except as specified in subdivision (f), the actual processing fee paid by a beverage ~~manufacturers~~ manufacturer shall equal 65 percent of the processing payment calculated pursuant to subdivision (b).

(f) The department, consistent with Section 14581 and subject to the availability of funds, shall reduce the processing fee paid by beverage manufacturers ~~pursuant to subdivision (e)~~ by expending funds in each material processing fee account, ~~established pursuant to subparagraph (A) of paragraph (6) of~~

~~subdivision (a) of Section 14581, so that the amount of the processing fee equals 25~~ in the following manner:

(1) The processing fee in effect on January 1, 2004, shall be equal the following amounts:

(A) For a container type that was subject to this division on January 1, 1999, 12 percent of the processing payment ~~calculated pursuant to subdivision (b)~~ if the recycling rate of that container type was equal to, or greater than, 60 percent for the 1999 calendar year .

~~(g) Prior to January 1, 2001, the department may adjust a processing fee~~

(B) For a container type that was not subject to this division on January 1, 1999, 12 percent of the processing payment, if the recycling rate of that container type was equal to, or greater than, 60 percent for the 2001 calendar year.

(C) For a container type that was not subject to this division on January 1, 1999, 15 percent of the processing payment if the recycling rate for that container type was equal to, or greater than, 45 percent, but less than 60 percent for the 2001 calendar year.

(D) For a container type that was not subject to this division on January 1, 1999, 20 percent of the processing payment if the recycling rate for that container type was equal to, or greater than, 30 percent, but less than 45 percent, for the 2001 calendar year.

(2) On January 1, 2005, and annually thereafter, the processing fee shall equal the following amounts:

(A) Ten percent of the processing payment for a container type with a recycling rate equal to or greater than 75 percent.

(B) Eleven percent of the processing payment for a container type with a recycling rate equal to or greater than 65 percent, but less than 75 percent.

(C) Twelve percent of the processing payment for a container type with a recycling rate equal to or greater than 60 percent, but less than 65 percent.

(D) Thirteen percent of the processing payment for a container type with a recycling rate equal to or greater than 55 percent, but less than 60 percent.

(E) Fourteen percent of the processing payment for a container type with a recycling rate equal to or greater than 50 percent, but less than 55 percent.

(F) Fifteen percent of the processing payment for a container type with a recycling rate equal to or greater than 45 percent, but less than 50 percent.

(G) Eighteen percent of the processing payment for a container type with a recycling rate equal to or greater than 40 percent, but less than 45 percent.

(H) Twenty percent of the processing payment for a container type with a recycling rate equal to or greater than 30 percent, but less than 40 percent.

(I) Sixty-five percent of the processing payment for a container type with a recycling rate less than 30 percent.

(3) The department shall calculate the recycling rate for purposes of paragraph (2) based on the 12-month period ending on June 30 that directly precedes the date of the January 1 processing fee determination.

(g) Not more than once every three months, the department may make an adjustment in the amount of the processing payment established pursuant to this section ~~for any plastic~~

notwithstanding any change in the amount of the processing fee established pursuant to this section, for any beverage container, if ~~both of the following occur~~ the department makes the following determinations :

(1) ~~The department determines that the average statewide scrap values paid by willing purchasers for that beverage container materials type are~~ value paid by processors for the material type for the most recent available 12-month period directly preceding the quarter in which the processing payment is to be adjusted is 5 percent more or 5 percent less than the average scrap ~~values~~ value used as the basis for the processing ~~fee calculation~~ payment currently in effect .

(2) ~~The department determines that adjusting the processing fee~~ Funds are available in the processing fee account for the material type.

(3) Adjusting the processing payment is necessary to further the objectives of this division.

(h) (1) Except as provided in paragraphs (2) and (3), every beverage manufacturer shall pay to the department the applicable processing fee for each container sold or transferred to a distributor or dealer within 40 days of the sale in the form and in the manner which the department may prescribe.

(2) (A) Notwithstanding Section 14506, with respect to the payment of processing fees for beer and other malt beverages manufactured outside the state, the beverage manufacturer shall be deemed to be the person or entity named on the certificate of compliance issued pursuant to Section 23671 of the Business and Professions Code. If the department is unable to collect the processing fee from the person or entity named on the certificate of compliance, the department shall give written notice by certified mail to that person or entity. The notice shall state that the processing fee shall be remitted in full within 30 days of issuance of the notice or the person or entity shall not be permitted to offer that beverage brand for sale within the state. If the person or entity fails to remit the processing fee within 30 days of issuance of the notice, the department shall notify the Department of Alcoholic Beverage Control that the certificate holder has failed to comply, and the Department of Alcoholic Beverage Control shall prohibit the offering ~~or~~ for sale of that beverage brand within the state.

(B) The department shall enter into a contract with the Department of Alcoholic Beverage Control, pursuant to Section 14536.5, concerning the implementation of this paragraph, which shall include a provision reimbursing the Department of Alcoholic Beverage Control for its costs incurred in implementing this paragraph.

(3) (A) Notwithstanding paragraph (1), a beverage manufacturer may, upon the approval of the department, elect to make a single annual payment of processing fees, if the beverage manufacturer's projected processing fees for a calendar year total less than one thousand dollars (\$1,000).

(B) An annual processing fee payment made pursuant to this paragraph is due and payable on or before February 1 for every beverage container sold or transferred by the beverage manufacturer to a distributor or dealer in the previous calendar year.

(C) A beverage manufacturer shall notify the department of its intent to make an annual processing fee payment pursuant to this

paragraph on or before January 31 of the calendar year preceding the year in which the payment will be due.

(4) The department shall pay the processing payments on redeemed containers to processors, in the same manner as it pays refund values pursuant to Sections 14573 and 14573.5. The processor shall pay the recycling center the entire processing payment representing the actual cost and financial return incurred by the recycling center, as specified in subdivision ~~—(a)—~~ (b) .

(i) When assessing processing fees pursuant to subdivision (a), the department shall assess the processing fee on each container sold, as provided in ~~subdivision~~ subdivisions

(e) and (f) , by the type of material of the container , assuming that every container sold will be redeemed for recycling, whether or not the container is actually recycled.

(j) The container manufacturer, or a designated agent, shall pay to, or credit, the account of the beverage manufacturer in an amount equal to the processing fee.

(k) If, at the end of any calendar year for which glass recycling rates equal or exceed 45 percent and sufficient surplus funds remain in the glass processing fee account to make the reduction pursuant to this subdivision or if, at the end of any calendar year for which PET recycling rates equal or exceed 45 percent and sufficient surplus funds remain in the PET processing fee account to make the reduction pursuant to this subdivision, the department shall use these surplus funds in the respective processing fee accounts in the following calendar year to reduce the amount of the processing fee that would otherwise be due from glass or PET beverage manufacturers pursuant to this subdivision.

(1) The department shall ~~annually, on or before January 1, determine the statewide average scrap values paid to recyclers by processors for beverage containers during the 12 month period ending September 30. If the department determines that the statewide average scrap values paid for glass containers is 10 percent or more above or below the previous year's scrap value, the department shall adjust the processing payment to equal the difference between the cost of recycling and the new statewide average scrap value—~~ reduce the glass or PET processing fee amount pursuant to this subdivision in addition to any reduction for which the glass or PET beverage container qualifies under subdivision (f) .

(2) The department shall determine the processing fee reduction by dividing two million dollars (\$2,000,000) from each processing fee account by an estimate of the number of containers sold or transferred to a distributor during the previous calendar year, based upon the latest available data .

SEC. 13. Section 14575.1 of the Public Resources Code is amended to read:

14575.1. (a) Notwithstanding subdivision ~~—(d)—~~

(b) of Section 14575, if a willing purchaser offers to purchase empty PET containers at a voluntary artificial scrap value that ~~—, when combined with payments made from the PET Processing Fee Account—~~ is equal to the processing fee reduced pursuant to subdivision (f) of Section 14575 ~~—, is equal to, or more than, the recycling cost for empty PET containers, as determined in subdivision (d) of Section 14575,~~
when applied to all containers sold, no

processing fee shall be imposed on PET containers pursuant to Section 14575.

(b) If a willing purchaser offers to pay a voluntary artificial scrap value, the department shall, on a monthly basis, determine whether the sum of the voluntary artificial scrap value and payments made from the PET Processing Fee Account pursuant to subdivision (f) of Section 14575, are equal to, or more than, the recycling cost for empty PET containers determined pursuant to subdivision (d) of Section 14575.

(c) If the department determines that, for any monthly period, the sum of the voluntary artificial scrap value and payments made from the PET Processing Fee Account pursuant to subdivision (f) of Section 14575, is less than the recycling cost for empty PET containers, determined pursuant to ~~subdivision (d) of~~ Section 14575, the following requirements shall apply:

(1) The department shall immediately provide written notification of the deficiency for that monthly period and the amount of that deficiency to any willing purchaser.

(2) A willing purchaser shall correct the deficiency in the next monthly period by adjusting the voluntary artificial scrap value by an amount sufficient to equal the recycling cost for empty PET containers plus the previous monthly period's deficiency.

(3) If the deficiency and amount in arrears is not corrected within 30 days of providing written notice to willing purchasers of empty PET containers, the department shall impose a processing fee pursuant to Section 14575 which includes any amount necessary, including any amount in arrears, to cover the cost of recycling empty PET containers.

(d) If the department determines that, for any monthly period, the sum of the voluntary artificial scrap value and payments made from the PET Processing Fee Account pursuant to subdivision (f) of Section 14575, is greater than the recycling cost for empty PET containers, the department shall do both of the following:

(1) Immediately provide written notification of the deviation for that monthly period and the amount of that deviation to any willing purchaser.

(2) Provide a credit equal to the amount of the deviation for any future monthly period wherein the voluntary artificial scrap value, and payments made from the PET Processing Fee Account, are less than the recycling cost of empty PET containers determined pursuant to subdivision (d) of Section 14575.

(e) Nothing in this section is intended to affect any ~~pending~~ litigation that was pending on January 1, 1996, in which the department is a party of record.

SEC. 14. Section 14575.2 is added to the Public Resources Code, to read:

14575.2. (a) In order to ensure that only those funds necessary to cover the net cost of recycling each beverage container sold are paid by beverage manufacturers, the department shall establish a processing fee rebate for all beverage containers for which a processing fee was paid on containers sold between January 1, 2002, and December 31, 2003. The amount of the rebate for each container shall be equal to the difference between the processing fee established and paid pursuant to Section 14575 as it read on January 1, 2003, and the processing fee established pursuant to paragraph (1) of subdivision (f) of Section 14575 as it reads on the effective

date of the act adding this section.

(b) Consistent with Section 14581, and subject to the availability of funds, the department shall pay a processing fee rebate to beverage manufacturers on all beverage containers sold between January 1, 2002, and December 31, 2003, for which the beverage manufacturer paid a processing fee as determined by the department.

(c) The department shall pay the processing fee rebate in a form and manner as it determines.

(d) The department may not pay the processing fee rebate before July 1, 2004, or after June 30, 2006.

(e) The department may deduct from the processing fee rebate any amount owed to the department by the beverage manufacturer.

(f) It is the intent of the Legislature that the department undertake those actions that are in compliance with this chapter and that reduce processing fees paid by beverage manufacturers consistent with this section prior to the effective date of the act adding this subdivision.

SEC. 15. Section 14575.5 is added to the Public Resources Code, to read:

14575.5. (a) The department shall establish a supplemental processing payment to be paid to a processor. The processor shall pay the entire supplemental processing payment to a recycler that receives processing payments pursuant to Section 14575. The department shall determine the supplemental processing payment based on the volume of redeemed containers that the recycler reports for each whole month pursuant to subdivision (b), commencing on July 1, 2004, and continuing for a period of 12 consecutive months.

(1) Consistent with Section 14581 and subject to the availability of funds, the department shall establish a supplemental processing payment for glass, PET plastic containers, and HDPE plastic containers as follows:

(A) Forty dollars and eighty-six cents (\$40.86) for each ton of glass beverage containers.

(B) One hundred eighty-two dollars and fifty-four cents (\$182.54) for each ton of PET plastic beverage containers.

(C) Two hundred twenty-eight dollars and seventy-five cents (\$228.75) for each ton of HDPE plastic beverage containers.

(2) The department may not make a supplemental processing payment to a recycler for any volume reported for a whole month that is not within the 12-month consecutive time period established in subdivision (a).

(b) A recycler shall report to a processor the volume of redeemed containers subject to the supplemental processing payments established pursuant to paragraph (1) of subdivision (a) no later than the 10th day following the end of the 12-month period established in subdivision (a).

(c) The department shall pay the supplemental processing payments on eligible redeemed containers to processors, in the same manner as it pays refund values pursuant to Sections 14573 and 14573.5, except that paragraph (2) of subdivision (a) of Section 14573.5 is not applicable. The processor shall pay a recycler the entire supplemental processing payment as specified in subdivision (a).

SEC. 16. Section 14576 is added to the Public Resources Code, to read:

14576. (a) From January 1, 2004, to December 31, 2006, inclusive,

the department shall establish a pilot program using supermarket sites that use both reverse vending machines and staffed recycling centers to determine whether or not these recycling centers increase recycling rates and provide greater convenience and ease of use for consumers.

(b) The pilot program shall comply with all of the following criteria:

(1) The program shall consist of not more than 50 supermarket sites that represent a valid statistical sampling of the state, as determined by the department.

(2) Each dealer where the supermarket site is located certifies to the department in writing that it has authorized the recycling center to participate in the pilot program.

(3) Each supermarket site in the pilot program has at least two reverse vending machines that accept all types of beverage containers, except those beverage containers that are labeled with a "2," as specified in subdivision (a) of Section 18015 and are larger than three liters.

(4) The department authorizes each supermarket site, which has redeemed, as determined by the department, a monthly average volume of no less than 60,000 empty beverage containers, and no more than 150,000 empty beverage containers for the months between July 1, 2002, and June 30, 2003, inclusive.

(c) Each supermarket site participating in the pilot program shall comply with all of the following requirements:

(1) The supermarket site is inspected by the operator that participates in the pilot program at least once each day to maintain and empty the machines and ensure that the site is kept clean.

(2) The operator of the supermarket site submits monthly service records to the department within 10 days of the end of each month, showing the number of complaints per site, if any, and the response time for each service call.

(3) (A) The supermarket site is operational at least 95 percent of operable time.

(B) For purposes of this paragraph, "operable time" means the actual operating hours the supermarket site is required to be open for business each month. A supermarket site's operating hours shall be determined consistent with the supermarket's operational hours, subject to applicable curfew requirements imposed by local ordinance.

(4) The reverse vending machine at the supermarket site is not inoperative more than one day a month, and if that breakdown rate is exceeded, the supermarket site replaces the reverse vending machine within three business days.

(5) The operator of the supermarket site repairs a reverse vending machine within five business hours of receiving a complaint by a consumer, the dealer, or the department that the recycling center is not operational during operable time.

(6) The supermarket site provides a receptacle adjacent to the reverse vending machine for beverage containers that are labeled with a "2," as specified in subdivision (a) of Section 18015, and that are larger than three liters. The operator shall post a sign on the receptacle indicating the hours of staffed operation in which a consumer may return the container to the site and receive a redemption payment.

(7) The operator of the supermarket site has an attendant present at the supermarket site a minimum of 20 hours per week, including no fewer than three hours on a Saturday or a Sunday between the hours of

9 a.m. and 5 p.m. and no fewer than three evening hours between the hours of 5 p.m. and 9 p.m. during one weekday evening.

(8) The operator of the supermarket site provides instructions for use of the reverse vending machine at the supermarket site in appropriate languages and in pictorial representations demonstrating how to use the reverse vending machine.

(9) The operator of the supermarket site maintains a toll-free telephone number attended by a live operator during operable time to answer calls from any person regarding the performance of its reverse vending machine.

(10) The operator of the supermarket site posts information identifying the location of, and directions to, the nearest certified recycling center that is open for business at least 30 hours per week and accepts all material types.

(d) If the department determines that the total volume of beverage containers redeemed at a supermarket site authorized to participate in the pilot program decreases by more than 10 percent from the volume reported for the prior year, the supermarket site shall be staffed for at least 30 hours per week.

(e) (1) The department shall monitor the volume of beverage containers redeemed at each supermarket site participating in the pilot program at least once every three-month period.

(2) The department shall conduct an annual review of each supermarket site participating in the pilot program to determine overall performance and make operational adjustments.

(3) The department shall disqualify an individual site from participation in the pilot program, effective within seven calendar days of notice provided to the

operator, upon a determination that the continued operation of the supermarket site within the pilot program does not further the goals of the division.

(4) The department shall, upon the written request of the dealer at the supermarket site and within seven calendar days of the request made by the dealer to the department, disqualify the operator from further participation in the pilot program at that supermarket site.

(f) The department may adopt emergency regulations to implement this section. Any emergency regulations, if adopted, shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.

(g) Notwithstanding Sections 14570 and 14571, a supermarket site that consists of reverse vending machines is "open for business" within the meaning of this section if the supermarket site is approved by the department to participate in the pilot program pursuant to paragraph (4) of subdivision (b) and the supermarket site complies with the operating requirements specified in subdivision (c).

(h) On or before July 1, 2006, the department shall report to the Governor and Legislature on the effectiveness of the pilot program and make recommendations on whether the program should be continued, expanded, or modified to ensure compliance with this division.

(i) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted

statute, that is enacted before January 1, 2007, deletes or extends that date.

SEC. 17. Section 14581 of the Public Resources Code is amended to read:

14581. (a) Subject to the availability of funds, and pursuant to subdivision (c), the department shall expend the money set aside in the fund, pursuant to subdivision (c) of Section 14580 for the purposes of this section:

(1) ~~Twenty-three~~ On and after July 1, 2002, ~~twenty-six~~ million five hundred thousand dollars ~~(\$23,500,000)~~ (\$26,500,000) shall be expended annually for the payment of handling fees required pursuant to Section 14585.

(2) Fifteen million dollars (\$15,000,000) shall be expended annually for payments for curbside programs and neighborhood dropoff programs pursuant to Section 14549.6.

(3) (A) Fifteen million dollars (\$15,000,000), plus the proportional share of the cost-of-living adjustment, as provided in subdivision (b), shall be expended annually in the form of grants for beverage container litter reduction programs and recycling programs issued to either of the following:

(i) Certified community conservation corps that were in existence on September 30, 1999, or that are formed subsequent to that date, that are designated by a city or a city and county to perform litter abatement, recycling, and related activities, if the city or the city and county has a population, as determined by the most recent census, of more than 250,000 persons.

(ii) Community conservation corps that are designated by a county to perform litter abatement, recycling, and related activities, and are certified by the California Conservation Corps as having operated for a minimum of two years and as meeting all other criteria of Section 14507.5.

(B) Any grants provided pursuant to this paragraph shall not comprise more than 75 percent of the annual budget of a community conservation corps.

(4) (A) Ten million five hundred thousand dollars (\$10,500,000) may be expended annually for payments of five thousand dollars (\$5,000) to cities and ten thousand dollars (\$10,000) for payments to counties for beverage container recycling and litter cleanup activities, or the department may calculate the payments to counties and cities on a per capitabasis, and may pay whichever amount is greater, for those activities.

(B) Eligible activities for the use of these funds may include, but are not necessarily limited to, support for new or existing curbside recycling programs, neighborhood dropoff recycling programs, public education promoting beverage container recycling, litter prevention, and cleanup, cooperative regional efforts among two or more cities or counties, or both, or other beverage container recycling programs.

(C) These funds may not be used for activities unrelated to beverage container recycling or litter reduction.

(D) To receive these funds, a city, county, or city and county shall fill out and return a funding request form to the Department of Conservation. The form shall specify the beverage container recycling or litter reduction activities for which the funds will be used.

(E) The Department of Conservation shall annually prepare and distribute a funding request form to each city, county, or city and county. The form shall specify the amount of beverage container recycling and litter cleanup funds for which the jurisdiction is eligible. The form shall not exceed one double-sided page in length, and may be submitted electronically. If a city, county, or city and county does not return the funding request form within 90 days of receipt of the form from the department, the city, county, or city and county is not eligible to receive the funds for that funding cycle.

(F) For the purposes of this paragraph, per capita population shall be based on the population of the incorporated area of a city or city and county and the unincorporated area of a county. The department may withhold payment to any city, county, or city and county that has prohibited the siting of a supermarket site, caused a supermarket site to close its business, or adopted a land use policy that restricts or prohibits the siting of a supermarket site within its jurisdiction.

(5) (A) ~~Five~~ *One million five* hundred thousand dollars ~~—(\$500,000)—~~ *(\$1,500,000)* may be expended annually in the form of grants for beverage container recycling and litter reduction programs.

(B) Up to a total of six million eight hundred forty thousand dollars (\$6,840,000) shall be paid to the City of San Diego, between January 1, 2000, and January 1, 2004, for a curbside recycling program conducted pursuant to Section 14549.7.

(6) (A) The department shall expend the amount necessary to pay the processing payment *and supplemental processing payment* established pursuant to ~~subdivision (b) of Section 14575~~

Sections 14575 and 14575.5 and pay processing fee rebates pursuant to Section 14575.2 . The department shall establish separate processing fee accounts in the fund for each beverage container material type for which a processing payment and processing fee is calculated pursuant to Section 14575, *or for which a processing payment is calculated pursuant to Section 14575 and a voluntary artificial scrap value is calculated pursuant to Section 14575.1,* into which account shall be deposited ~~both~~ *all* of the following:

(i) All amounts paid as processing fees for each beverage container material type pursuant to ~~subdivision (g) of~~ Section 14575.

(ii) Funds equal to ~~pay 75 percent of~~ *the difference between the amount in subparagraph (i) and the amount of the processing payments established in subdivision (b) of Section 14575, in order and adjusted pursuant to paragraphs (2) and (3) of subdivision (c) of, and subdivision (f) of, Section 14575, to reduce the processing fee to the level provided in subdivision (f) of Section 14575, or to reflect the agreement by a willing purchaser to pay a voluntary artificial scrap value pursuant to Section 14575.1.*

(iii) *Funds equal to an amount sufficient to pay the total amount of the supplemental processing payments established pursuant to Section 14575.5.*

(B) Notwithstanding Section 13340 of the Government Code, the money in each processing fee account is hereby continuously appropriated to the department for expenditure without regard to fiscal years, for purposes of making processing payments *and*

supplemental processing payments , and reducing processing fees, pursuant to Sections 14575 and 14575.5 and paying processing fee rebates pursuant to Section ~~14575~~ 14575.2 .

(7) ~~(A) Up to ten~~ five million dollars ~~(\$10,000,000) shall be~~ (\$5,000,000) may be annually expended by the department ~~between January 1, 2000, and January 1, 2002,~~ for the purposes of undertaking a statewide public education and information campaign aimed at promoting increased recycling of beverage containers.

~~(B) On or before July 1, 2002, the department shall provide a report to the Legislature on the impact of the statewide public education and information campaign and make recommendations for any future campaigns.~~

(8) Up to three million dollars (\$3,000,000) shall be expended annually for the payment of quality glass incentive payments pursuant to Section 14549.1.

(9) (A) Three hundred thousand dollars (\$300,000) shall be expended annually by the department, until January 1, ~~2003~~

2005 , pursuant to a cooperative agreement entered into between the department and Keep California Beautiful, a nonprofit 501(c)(3) organization chartered by the State of California in 1990, for the purpose of conducting statewide public education campaigns aimed at preventing and cleaning up beverage containers and related litter. The campaigns shall include, but not be limited to, coordination of Keep California Beautiful month.

(B) Prior to making an expenditure pursuant to this paragraph, the department shall enter into a cooperative agreement with Keep California Beautiful.

(C) As part of the cooperative agreement, Keep California Beautiful shall provide the department with an annual campaign plan and budget, and a report of previous year campaign activities.

~~(D) On or before July 1, 2002, the department shall make a recommendation to the Legislature on future funding for beverage container litter prevention and cleanup activities by Keep California Beautiful.~~

(10) Up to ten million dollars (\$10,000,000) may be expended annually by the department, until January 1, 2007, to issue grants for recycling market development and expansion-related activities aimed at increasing the recycling of beverage containers, including, but not limited to, the following:

(A) Research and development of collecting, sorting, processing, cleaning, or otherwise upgrading the market value of recycled beverage containers.

(B) Identification, development, and expansion of markets for recycled beverage containers.

(C) Research and development for products manufactured using recycled beverage containers.

(D) Payments to California manufacturers who recycle beverage containers that are marked by resin type identification codes "3," "4," "5," "6," or "7," pursuant to Section 18015.

(11) Up to ten million dollars (\$10,000,000) may be transferred on a one time basis by the department to the Recycling Infrastructure Loan Guarantee Account, for expenditure pursuant to Section 14582.

(b) The fifteen million dollars (\$15,000,000) that is set aside pursuant to paragraph (3) of subdivision (a) is a base amount that

the department shall adjust annually to reflect any increases or decreases in the cost of living, as measured by the Department of Labor, or a successor agency, of the federal government.

(c) (1) The department shall review all funds on a quarterly basis to ensure that there are adequate funds to make the payments specified in this section and the processing fee reductions required pursuant to Section 14575.

(2) If the department determines, pursuant to a review made pursuant to paragraph (1), that there may be inadequate funds to pay the payments required by this section and the processing fee reductions required pursuant to Section 14575, the department shall immediately notify the appropriate policy and fiscal committees of the Legislature regarding the inadequacy.

(3) On or before 180 days after the notice is sent pursuant to paragraph (2), the department may reduce or eliminate expenditures, or both, from the funds as necessary, according to the procedure set forth in subdivision (d).

(d) If the department determines that there are insufficient funds to make the payments specified pursuant to this section and Section 14575, the department shall reduce all payments proportionally.

(e) Prior to making an expenditure pursuant to paragraph (7) of subdivision (a), the department shall convene an advisory committee consisting of representatives of the beverage industry, beverage container manufacturers, environmental organizations, the recycling industry, nonprofit organizations, and retailers, to advise the department on the most cost-effective and efficient method of the expenditure of the funds for that education and information campaign.

SEC. 18. Section 14582 is added to the Public Resources Code, to read:

14582. The Recycling Infrastructure Loan Guarantee Account is hereby created as a revolving account in the California Beverage Container Recycling Fund, and the funds in that account are continuously appropriated to the department to issue loan guarantees for capital expenditures for new recycling infrastructure located in the state. The department may issue a loan guarantee from the account only if the department determines that the new recycling infrastructure adds recycling capacity, results in remanufacturing and reuse of beverage containers into new products, and complies with all applicable laws and regulations.

SEC. 19. Section 14585 of the Public Resources Code is amended to read:

14585. (a) The department shall adopt guidelines and methods for paying handling fees to supermarket sites, nonprofit convenience zone recyclers, or rural region recyclers to provide an incentive for the redemption of empty beverage containers in convenience zones. The guidelines shall include, but not be limited to, all of the following:

(1) Handling fees shall be paid on a monthly basis, in the form and manner adopted by the department. The department shall require that claims for the handling fee be filed with the department not later than the first day of the second month following the month for which the handling fee is claimed as a condition of receiving any handling fee.

(2) To be eligible for any handling fee, a supermarket site recycling center, nonprofit convenience zone recycler, or rural

region recycler shall redeem not less than 60,000 beverage containers, ~~and, except for operators of certified recycling centers that are nonprofit organizations, not more than 500,000 beverage containers,~~ during the calendar month in which the handling fee is claimed *or have redeemed not less than an average of 60,000 beverage containers per month during the previous 12 months .*

(3) A beverage container with a capacity of 24 fluid ounces or more shall be considered as two beverage containers for purposes of determining the eligibility percentage, any handling fee calculations, and payments.

(4) The department shall determine the number of eligible containers per site for which a handling fee will be paid in the following manner:

(A) Each eligible site's combined monthly volume of glass and plastic beverage containers shall be divided by the site's total monthly volume of all empty beverage container types.

(B) If the quotient determined pursuant to subparagraph (A) is equal to, or more than, 10 percent, the total monthly volume of the site shall be the maximum volume which is eligible for a handling fee for that month.

(C) If the quotient determined pursuant to subparagraph (A) is less than 10 percent, the department shall divide the volume of glass and plastic beverage containers by 10 percent. That quotient shall be the maximum volume that is eligible for a handling fee for that month.

(5) The department shall pay a handling fee of 1.8 cents (\$0.018) per eligible beverage container, as determined pursuant to paragraph (4).

(6) Notwithstanding paragraph (5), the total handling fee payment to a supermarket site, nonprofit convenience zone recycler, or rural region recycler shall not exceed two thousand three hundred dollars (\$2,300) per month.

(7) If the eligible volume in any given month would result in handling fee payments which exceed the allocation of funds for that month, as provided in subdivision (b), sites with higher eligible monthly volumes shall receive handling fees for their entire eligible monthly volume before sites with lower eligible monthly volumes receive any handling fees.

(8) (A) If a dealer where a supermarket site, nonprofit convenience zone recycler, or rural region recycler is located ceases operation for remodeling or for a change of ownership, the operator of that supermarket site nonprofit convenience zone recycler, or rural region recycler shall be eligible to apply for handling fees for that site for a period of three months following the date of the closure of the dealer.

(B) Every supermarket site operator, nonprofit convenience zone recycler, or rural region recycler shall promptly notify the department of the closure of the dealer where the supermarket site, nonprofit convenience zone recycler, or rural region recycler is located.

(C) Notwithstanding subparagraph (A), any operator who fails to provide notification to the department pursuant to subparagraph (B) shall not be eligible to apply for handling fees.

(b) The department may allocate the ~~twenty three million five hundred thousand dollars (\$23,500,000)~~ amount authorized for expenditure for the payment of handling fees

pursuant to paragraph (1) of subdivision (a) of Section 14581 on a monthly basis and may carry over any unexpended monthly allocation to a subsequent month or months. However, unexpended monthly allocations shall not be carried over to a subsequent fiscal year for the purpose of paying handling fees but may be carried over for any other purpose pursuant to Section 14581.

(c) (1) The department shall not make handling fee payments to more than one certified recycling center in a convenience zone. If a dealer is located in more than one convenience zone, the department shall offer a single handling fee payment to a supermarket site located at that dealer. This handling fee payment shall not be split between the affected zones. The department shall stop making handling fee payments if another recycling center certifies to operate within the convenience zone without receiving payments pursuant to this section, if the department monitors the performance of the other recycling center for 60 days and determines that the recycling center is in compliance with this division. Any recycling center that locates in a convenience zone, thereby causing a preexisting recycling center to become ineligible to receive handling fee payments, is ineligible to receive any handling fee payments in that convenience zone.

(2) The department shall offer a single handling fee payment to a rural region recycler that is located anywhere inside a convenience zone that is not served by another certified recycling center and does either of the following:

(A) Operates a minimum of 30 hours per week in one convenience zone.

(B) Serves two or more convenience zones, and meets all of the following criteria:

(i) Is the only certified recycler within each convenience zone.

(ii) Is open and operating at least eight hours per week in each convenience zone and is certified at each location.

(iii) Operates at least 30 hours per week in total for all convenience zones served.

(d) The department may require the operator of a supermarket site or rural region recycler receiving handling fees to maintain records for each location where beverage containers are redeemed, and may require the supermarket site or rural region recycler to take any other action necessary for the department to determine that the supermarket site or rural region recycler does not receive an excessive handling fee.

(e) The department may determine and utilize a standard container per pound rate, for each material type, for the purpose of calculating volumes and making handling fee payments.